



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: June 22, 2010

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Appeal Of Historic Landmarks Commission Denial For 517 Chapala Street Development Project

RECOMMENDATION: That Council:

- A. Uphold the appeal of Peikert Group Architects filed on behalf of H&R Investments, and overturn the Historic Landmarks Commission decision to deny Preliminary Approval of a proposed mixed-use project located at 517 Chapala Street; and
- B. Grant the project Preliminary Approval and refer the project back to the Historic Landmarks Commission for Final Approval consistent with previous Council direction on the project's final design details.

EXECUTIVE SUMMARY:

In March 2008, the Council reversed an HLC design denial decision involving this project and it granted Preliminary Approval for the Project with specific direction to the HLC. The project's Preliminary HLC Approval was subsequently granted a year time extension by staff in 2009 which has since expired as of March 4, 2010.

In 2010, the Historic Landmarks Commission (HLC) began in-progress reviews of this mixed-use, three-story condominium project and denied the Preliminary Approval of the design review aspects of the project at the request of the applicant by a 4/3/0 split vote on April 14, 2010. Therefore, this is the second time that the HLC has voted to deny Preliminary Approval of this project. The applicant had requested a HLC denial again based on a belief that additional revisions to the size and scale of the building being requested by the HLC would require a major redesign of the project and were inconsistent with the original March 2008 Council direction.

The appellants have filed this appeal requesting that the Council approve the project again, asserting that the "HLC has stated its intent to impose revisions to the project inconsistent with the Planning Commission's July 13, 2006, approval of the project" (see Attachment 1). It is Staff's position that some of the appellants' reasons for their requests are still valid, in that the HLC has again asked for substantial design changes to the project at a late stage in the City's review process. The prior 2008 appeal of this

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project also raised concerns and questions regarding the City's review process and how design review boards communicate with the Planning Commission. It is staff's belief that, for the most part, these concerns have been addressed by appropriate amendments to the design review portions of the Municipal Code (as enacted in September 2008) which necessitate certain compatibility analysis criteria by the design review board and which encourage those boards to express their "compatibility" concerns to the Planning Commission and City Council.

Under the current appeal, the HLC believes that because the applicant failed to move forward in a timely manner, and allowed their design review preliminary approval decision to expire, the City Council should reconsider their earlier project approval action. Staff understands the HLC's concerns regarding the height of the proposed building and its location on Chapala Street adjacent to nearby historic resources. However, Staff believes the Planning Commission, Council and HLC have previously fully considered these concerns and has required reasonable changes to lower the height and improve the appearance of the building and that denial of the project at this time is unfair to the applicant.

It is Staff's opinion that the applicant did respond to the Council's previous direction regarding design direction of the last appeal decision but misunderstood the expiration timeframes involved with multiple time extension approvals. The applicant incorrectly assumed that the land use approval extensions would allow for more time to obtain final HLC preliminary and final design approvals. Staff supports the approval of the project design but with a clear understanding that no more time extensions will be granted. Therefore, Staff recommends that the Council uphold the appeal, grant Preliminary Approval of the project, and refer the project back to the HLC for Final Approval.

PROJECT DESCRIPTION:

The project involves a lot merger and the construction of a mixed-use development with six two-bedroom residential condominium units totaling 10,147 square feet, and two commercial condominium spaces totaling 2,729 square feet. One of the residential units would be affordable to a moderate income level household. A modification to allow the 10% open space on the second floor was approved but is no longer necessary due to project changes. Seventeen parking spaces are proposed. The proposed parking garage would be accessed from the existing Chapala Street curb cut.

The project site is located along the lower part of Chapala Street corridor in the downtown core of the City and backs up onto a public alleyway to the rear. The 500 block of Chapala Street has primarily commercial development along both sides of the street with some residential uses. The uses surrounding the project site are commercial

and mixed-use with residential and are primarily developed with single- and two-story buildings (see Attachment 2).

The proposed project is adjacent to historic structures to the south and west, which are a part of the Brinkerhoff Avenue Landmark District. A Victorian Italianate-style residence, constructed in 1887 and located at 509 Chapala Street, is adjacent to the project to the south. A new three-story, mixed-use condominium project was recently completed adjacent to the site to the north. The proposed project site and the three story condominium project recently completed at 523 Chapala Street were formerly used auto sales lots.

DISCUSSION:

Background/History- 2005-2009

This project has a long history of City reviews beginning with conceptual reviews by the HLC and Planning Commission in early 2005 (see Attachment 3). On July 13, 2006 the Planning Commission approved the discretionary land-use permits and subdivision map approval for this project by a 7/0/0 vote. In September 2007, the HLC granted Preliminary Design Approval on a 4/3/2 vote but then voted to reconsider the project's approval at its very next meeting. During the next several HLC meetings, the HLC attempted to work with the applicant to further revise the project design but the applicant eventually determined that the type of changes being requested by some HLC members would be too severe and they asked the HLC to issue a denial of the project's design in November 2007. The HLC voted 7/2/0 to deny the proposed design of the Project on November 28, 2007 and the applicant appealed this decision in December 2007 (see Attachment 4).

In March 2008, the Council overturned the HLC's denial decision, granted Preliminary Design Approval with specific directions for certain revisions to the Project design and referred the project back to HLC. The project received a three-year time extension on its modification from the Staff Hearing Officer in July 2008. The project's HLC Preliminary Approval was subsequently granted a one-year time extension by staff in March 2009.

Historic Landmarks Commission Review - 2010

The HLC reviewed this project at two separate hearings when the project returned back in early 2010 nearly 2-1/2 years after their last review. On March 3, 2010, the HLC began the most recent in-progress reviews with several questions relating to compliance with previous City Council directives. Since some HLC members were not familiar with the project's history, additional background information was asked to be provided to help update the HLC

and the HLC understood that City Council had previously overturned a denial decision on this project but a slight majority of the HLC still voiced concerns that the project should not be approved as designed.

When the project returned to the HLC on April 14, 2010, planning staff informed the HLC that the project's Planning Commission approvals were still valid until 2012 and recommended that Council's previous action and direction be supported (see Attachment 5). However, the majority of the HLC was not convinced that HLC should grant another preliminary approval and requested additional revisions to reduce the height and scale of the building.

The HLC continued to cite ongoing concerns regarding the building's mass, bulk, and scale and neighborhood compatibility with the adjacent Brinkerhoff Avenue Landmark District. Some Commissioners suggested that the project should be re-evaluated in light of the newly adopted compatibility ordinance criteria enacted since the project was last reviewed. The applicant requested a denial action once again because the additional revisions to the size and scale of the building being requested by the HLC would require a major redesign of the project. The HLC denied the Preliminary Approval of the design review aspects of the project at the request of the applicant by a 4/3/0 split vote on April 14, 2010.

Appeal Points/Issues:

Appellant Issue #1: The HLC continues to state its intent to impose revisions to the project inconsistent with the Planning Commission approval of July 13, 2006 and with the City Council direction of March 4, 2008.

The normal City review process is to obtain Preliminary Approval from the ABR or HLC after Planning Commission land use approvals. The Planning Commission's land use approval decision is recognized as the "substantive" approval decision on a project's approved site plan and building height. Once the project is approved by the Planning Commission, the HLC has typically granted Preliminary Approval to the project if, in the opinion of the HLC, the plans are in substantial conformance to the concept and massing plans approved by the Planning Commission (or City Council on appeal) and if the project is consistent with those plans submitted at the HLC Concept review which received positive HLC comments.

Typically, the HLC would not seek significant reductions in height or major site plan changes after the City land-use approvals had been finalized unless the Planning Commission approval had specific directions to do so or if the project had since been changed by the applicant in a substantial manner not consistent with the Planning Commission approval. But, in this case, the following facts pertain:

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- The HLC is requesting substantial design changes in the reduction of the building height and size, bulk and scale of the building because the previous Preliminary Approval has expired.
- The HLC's concerns are focused on the height and scale of the building in close proximity to the Brinkerhoff Landmark District.
- As a result of this particular appeal being considered by the City Council in March 2008, the City's review process and communication methods were considerably revised in September 2008 to require a compatibility analysis as part of early design concept reviews. The compatibility analysis criteria are now outlined in SBMC 22.22.145.
- The applicant incorrectly assumed that the land use approval extensions would allow for more time to obtain final HLC preliminary and final design approvals.
- The project has now been revised to comply with Planning Commission conditions of approval, HLC requested design changes and previous Council direction as per the following changes:
 - The Chapala Street elevation was completely redesigned.
 - The height of the tower was reduced from 50 to 47 feet, was reduced in size by 50%, the habitable space was eliminated, and the form became square.
 - A landscaped setback was provided along Chapala Street ranging from 20 inches to 4 feet.
 - The width of the driveway was reduced from 14 to 12 feet to increase landscaping along Chapala Street and southern property line.
 - A six foot landscaped setback was provided along southern elevation for 50% of the structure's extent.
 - The southern elevation was articulated through the use of design features and windows.
 - The total common open space on-site was increased from 19% (PC approved) to 22%.
 - The private open space areas were increased from 1,200 square feet to 2,460 square feet.
 - Eliminated elevator access to the penthouse roof deck to further reduce the height of the tower (see Attachment 6).

Although the Preliminary Approval decision that Council made in 2008 has recently expired, it is unusual for the HLC to not grant Preliminary design approval for a project previously approved by the Planning Commission or Council. Staff understands that part of the reason for the HLC's design concerns is their belief that the new taller buildings along

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Chapala Street may negatively impact the view shed setting of the adjacent Historic Resources. However, in 2005, the HLC, at the first Conceptual review hearing, did not identify major height concerns, design guideline inconsistencies, or neighborhood compatibility concerns. Although the HLC would like to use the compatibility analysis criteria adopted in 2008, it does not apply to this project because this process was only intended to be used in the early phases of concept reviews for a newly proposed project prior to a project obtaining Planning Commission approvals. Part of the conflict that has caused this appeal has been the passage of time since the project was first reviewed by the HLC and the changing opinions regarding building heights in El Pueblo Viejo and whether it would be fair for the City to now apply these considerations to a project which received its land-use approvals years ago.

Appellant Issue #2: The evidence in the record does not support the findings the HLC made in denying the project including a finding that the project is “not compatible” with the adjacent historic structures.

Changes have been made to the project design to improve the transition to the Victorian structure to the south (509 Chapala St). One change is an increase of the setback dimension to six feet along the south elevation for at least 50% of the structure's extent. The project also provides a six-foot landscape buffer to the rear of the project which abuts the Brinkerhoff Avenue Landmark District along the public alleyway.

Planning Staff believes the adjacent Victorian structure would not be significantly impacted, given that the location of the taller elements of the project are located approximately 84 feet back from Chapala Street and that setbacks have been further increased to six feet for portions of the second and third floors for the new rear structure since the Planning Commission approval of the project. Furthermore, the two-story historic structure at 509 Chapala Street is 30 feet tall, is situated towards the front of the property, and is located 13 to 16 feet away from the property line. This separation in setback distances is sufficient to not severely impact the adjacent structure.

There is an existing 20 foot wide alleyway separation buffer between the buildings on Chapala Street and the rear of properties along the eastern side of Brinkerhoff Avenue. Although the proposed multi-story building would be partially visible between buildings while walking along Brinkerhoff Avenue, the building has been designed with setbacks at upper floors and with a typical height of only 40 feet, excluding the tower. Both the recently completed building at 523 Chapala Street and the proposed building under appeal are of a high quality architectural design, with moderate heights and would not appear to loom over the Landmark District. The designation of the Brinkerhoff Landmark District did not create additional buffer zoning requirements for the adjacent commercial land uses which are zoned C-2 along Chapala Street.

When the Planning Commission approved the project in 2006, they reviewed a site section and evaluated how the proposed structure on Chapala Street might impact views from Brinkerhoff Avenue. The Planning Commission requested a further reduction of the garage plate heights and determined the project acceptable if revised as directed. Although there was some opposition from neighbors, no major concerns were raised regarding the compatibility of the proposed structure with the neighborhood and the project was approved by a unanimous 7/0 vote.

Decision and Findings of the Planning Commission and City Council

It is Staff's position that the findings and determinations recommended by Staff and approved by the Planning Commission on July 13, 2006 remain appropriate for the project. The compatibility issues and concerns originally identified by the adjoining property owners were carefully considered by the Planning Commission during deliberations on the project and reflected in the findings made by the Commission for the Tentative Subdivision Map and Development Plan (see Attachment 7). In addition, Council made a similar determination in 2008 to approve the project finding that it was appropriate to allow this project to move forward.

Conclusion:

As indicated previously in describing the chronology and review history of the project, the project's Preliminary Design Approval has expired for the project and this expiration has triggered a re-evaluation of previously approved designs. The first HLC 2005 concept review of the project did not raise significant design issues for the HLC, however, the HLC has since had second thoughts about this project's design compatibility with the neighborhood. Staff believes it was important for the HLC to identify major design or massing concerns early in the process and either forward those concerns to the Planning Commission or work with the applicant to redesign the project until positive comments could be sent to the Planning Commission. Council agreed with this approach in March 2008 and reversed the HLC denial at that time. At this point in time, the applicant should not, in fairness, be expected to significantly redesign their project in a manner that would require loss of parking, increased setbacks or reduction of residential units and add a considerable expense to this project.

Planning Staff reviewed the project in 2010 and determined the project design was consistent with Council's previous directives. A majority of the HLC did not find the project had not followed Council's previous direction; rather, they believed the expiration of the previous Council approval alone was a sufficient basis to not grant another design approval of the project.

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While Staff understands that the City's review process allows the HLC to deny project designs which the HLC may find inconsistent with their design guidelines, this particular denial is unusual in that the HLC is essentially not in agreement with the Planning Commission's approval of the project on its land use merits and with the Council's previous direction in the original appeal concerning the design of this project. Planning Staff is of the opinion that it would be unfair and inequitable to now require this project to be redesigned based on the new City compatibility criteria analysis adopted after the Council approved the original design. Planning Staff believes that the project has been improved as a result of the HLC's reviews, and that it is appropriate to grant Preliminary Design Approval again, particularly since Council's previous direction has been followed.

RECOMMENDATION:

Staff recommends that Council: 1) uphold the appeal and overturn the Historic Landmarks Commission decision to deny Preliminary Approval of the project; 2) grant the project Preliminary Approval, and, 3) refer the project back to the Historic Landmarks Commission for Final Approval consistent with previous Council direction on the project's final design details.

NOTE: The project plans, files and previous Council Agenda Report dated March 4, 2008 have been sent separately to the City Council and are available for public review in the Mayor and Council Office and the City Clerk's Office:

ATTACHMENTS:

1. Appellant's letter dated April 15, 2010
2. Vicinity Map
3. Project Review Chronology
4. Minutes of the Historic Landmarks Commission
5. Staff Memo to HLC dated April 9, 2010
6. Site Plan and elevations denied by Historic Landmarks Commission on April 14, 2010
7. PC Resolution No. 030-06 and SHO Resolution No. 055-08

PREPARED BY: Jaime Limón, Senior Planner II

SUBMITTED BY: Paul Casey, Assistant City Administrator/Community Development

APPROVED BY: City Administrator's Office



PEIKERT GROUP ARCHITECTS, LLP

RECEIVED

2010 APR 15 PM 1:35

CITY OF SANTA BARBARA
CITY CLERK'S OFFICE

April 15, 2010

BY HAND DELIVERY

City Clerk
City of Santa Barbara
735 Anacapa Street
Santa Barbara, CA 93101

SUBJECT: 517 Chapala Street (MST2005-00088) – Appeal of Historic Landmarks
Commission Decision

To the City Clerk:

The undersigned, as agent for the applicant H&R Investments ("Applicant"), hereby appeals the April 14, 2010 decision of the Santa Barbara Historic Landmarks Commission (HLC) deny the application for preliminary review approval for a mixed use project located at 517 Chapala Street. The basis for our appeal is as follows:

1. The HLC stated its intent to impose revisions to the project that would be inconsistent with the Planning Commission's July 13, 2006 approval of the project, and which were unacceptable to the Applicant.
2. The evidence in the record does not support the findings the HLC made in denying the project, including a finding that claims the project is "not compatible" with the adjacent historic structures.

Further details concerning this appeal, including a detailed history of the project's discretionary process including Planning Commission, HLC and City Council review will be provided prior to the scheduled appeal hearing.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Lisa Plowman', with a long horizontal flourish extending to the right.

Lisa Plowman
Planning Manager

xc: Kathy Kennedy, City of Santa Barbara Planning Department
Jaime Limon, City of Santa Barbara Planning Department
Steven A. Amerikaner, Hatch & Parent
Hank Hurst, H&R Investments
Rich Rosen, H&R Investments

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Vicinity Map for 517 Chapala Street



517 Chapala Street- Project Review Chronology

02-14-2005 PRT/Planning Commission application received

03-04-2005 Optional mailed notice waived by applicant for neighbors within 100 feet

03-16-2005 HLC Concept Review- Project forwarded to Planning Commission with comments

04-21-2005 Planning Commission Concept review- Lunch Meeting

12-19-2005 PC/DART Application #1 received for 30 day review

02-02-2006 PC/DART Application #2 received for 30 day review

05-31-2006 PC/DART Application deemed complete

06-28-2006 Required mailed notice sent to neighbors within 300 feet

07-13-2006 Planning Commission Project Approval granted by 7/0/0 vote

07-24-2006 Appeal filed to City Council of Planning Commission Approval decision

09-18-2006 Council appeal withdrawn of Planning Commission Approval decision

11-15-2006 HLC Preliminary Review Hearing- Project Continued with comments

08-08-2007 HLC Preliminary Review Hearing- Project Continued with comments

09-05-2007 HLC Preliminary Review Hearing- Project Continued with comments

09-19-2007 HLC Preliminary Approval granted by 4/3/2 split vote

10-03-2007 HLC Motion for Reconsideration 0/0/0/ - Motion tabled to next HLC meeting

10-17-2007 Reconsideration of Project Preliminary Approval of 9-19-2007 decision by 8/0/0 vote

10-17-2007 HLC Preliminary Review Hearing- Project Continued with comments

11-14-2007 HLC Preliminary Review Hearing- Project Continued with comments

11-28-2007 HLC Preliminary Review Hearing- Project denied by 7/2/0 vote

12-05-2007 Appeal filed of HLC Preliminary approval decision.

- 03-04-2008 Council overturned HLC denial of Preliminary approval and granted Preliminary approval
- 07-12-2008 Approved the three-year time extension by SHO, to July 13, 2011, for the Tentative Subdivision Map
- 07-15-2008 Governor of California signed into law amendments to portions of the Subdivision Map Act to grant one-year automatic tentative map extensions under certain circumstances (See Government Code Section 66452.21). The extension granted by this legislation is separate from the extension granted by this action of the SHO. Therefore, the aforementioned tentative map is extended for a total of four years, to July 13, 2012. The time extension approval is not appealable.
- 03-02-2009 Time extension of HLC Preliminary Approval granted by staff
- 02-24-2010 Resubmittal received at Planning and Zoning Counter
- 03-03-2010 HLC Preliminary Review Hearing- Project continued with comments
- 04-14-2010 HLC Preliminary Review Hearing- Project denied by 4/3/0 vote
- 04-15-2010 Appeal filed of HLC denial decision

6. **517 CHAPALA ST** C-2 Zone
 Assessor's Parcel Number: 037-163-007
 Application Number: MST2005-00088
 Owner: Montecito Bank and Trust, Trustee
 Applicant: Peikert Group Architects, LLP

Action: La Voie/Hausz, 8/0/0.

HLC MINUTES – September 5, 2007

PRELIMINARY REVIEW

6. 517 CHAPALA ST

C-2 Zone

(4:01)

Assessor's Parcel Number: 037-163-007

Application Number: MST2005-00088

Owner: Montecito Bank & Trust Trustee

Applicant: Peikert Group Architects, LLC

Applicant: H & R Investments

(The proposed project consists of a lot merger and the construction of a mixed-use development with six two-bedroom residential condominium units totaling 9,999 square feet (net) and two commercial condominium spaces totaling 2,872 square feet (net). One of the units would be affordable. A modification to allow the 10% open space on the second floor is requested. Seventeen parking spaces are proposed.)

(Preliminary Approval is requested.)

(PROJECT REQUIRES COMPLIANCE WITH PLANNING COMMISSION RESOLUTION NO. 030-06.)

Present: Detlev Peikert and Scott Hopkins, Peikert Group Architects
Kathleen Kennedy, City Assistant Planner

Staff comments: Ms. Kennedy stated that the Planning Commission approved the project in July of 2006 with the proposed mass, bulk, and scale and determined that underground parking was not needed. Staff's recommendation is that it would not be appropriate to request an additional reduction in building height or substantial setback increases.

Public comment opened at 4:36 p.m.

Paula Westbury, local resident, expressed opposition to the project's height.

Kellam De Forest, local resident, commented about the need to restrict building heights in El Pueblo Viejo Landmark District and asked that the proposed project height be reduced.

Tony Vassallo, local resident, commented about lowering the garage plate height as much as feasible. He also commented that the third story balconies on the south, [west] elevation are unnecessarily large and could affect neighbor privacy. Mr. Vassallo questioned whether the proposed tile roofing could be seen from the pedestrian level.

Public comment closed at 4:42 p.m.

Straw votes: How many commissioners could support the tower as designed? 2/7.
(Naylor/Hausz agreed.)

How many Commissioners could support a square tower with a more tower-like proportioning and articulation? 6/3. (La Voie/Naylor/Sharpe opposed.)

How many Commissioners could support the round tower with the proper proportions? 8/1. (Sharpe opposed.)

How many Commissioners are comfortable with the gable as proposed on the Chapala Street elevation? 0/9. (All opposed.)

How many Commissioners would like to see the proposed gable be removed from the proposal? 9/0. (All agreed.)

Motion: Continued two weeks with the following comments: 1) The Commission would like to see the height of the building reduced on the back at the west elevation. 2) Resolve the composition of the Chapala Street elevation with or without a gable. 3) Use whatever means possible to reduce the south elevation of the building and its impact on the adjacent Victorian structure. 4) Include a more Mediterranean plant palette and an increase in planting wherever possible. 5) The Chapala Street planting strip should be increased to 36 inches instead of 18 inches.

Action: Hausz/Boucher, 9/0/0. Motion carried.

HLC MINUTES – September 19, 2007

PRELIMINARY REVIEW

4. 517 CHAPALA ST

C-2 Zone

(3:00)

Assessor's Parcel Number: 037-163-007

Application Number: MST2005-00088

Applicant: H & R Investments

Owner: Montecito Bank & Trust Trustee (For Applicant: Peikert Group Architects LLC)

The Proposed Project Consists of a lot merger and the construction of a mixed-use development with six two-bedroom residential condominium units totaling 9,999 square feet (net) and two commercial condominium spaces totaling 2,872 square feet (net). One of the units would be affordable. A modification to allow the 10% open space on the second floor is requested. Seventeen parking spaces are proposed.)

(Preliminary Approval is requested.)

(PROJECT REQUIRES COMPLIANCE WITH PLANNING COMMISSION RESOLUTION NO. 030-06.)

Present: Detlev Peikert, Peikert Group Architects
Scott Hopkins, Peikert Group Architects

Public comment opened at 3:13 P.M.

Karen McFadden, local resident, opposes the project
Tony Vasallo, local resident, supports the project

Kellam De Forrest, local resident, opposes the project

Public comment closed at 3:22 P.M.

Straw Votes How many Commissioners feel that the essence, (mass, bulk, and scale), of the project is approvable with changes to certain architectural elements such as the tower and the south elevation? 4/2 (Murray and Sharpe opposed.)

How many Commissioners feel that this project is unacceptable in mass, bulk, and scale in its current configuration? 3/4

How many Commissioners feel the Chapala elevation has been improved from the previous presentation and is approaching an approvable stage? 2/5

How many Commissioners support the shape of the tower? 4/3

How many Commissioners support a reduction of the Brinkerhoff elevation, (the lowering of the top plate and the elimination of the gable and roof line)? 3/0/1 (Naylor abstained)

Motion: Preliminary approval and indefinite continuance In-Progress review with revisions to the fenestration of the top level of the tower, provide articulation of the blank wall along the rear building through use of windows, landscaping, or other means, provide different sketches to simplify the design of the west elevation, and, to use a more Mediterranean plant palette with taller trees as the landscape plan is developed.

Action: Adams/Curtis , 3/4/2. (Boucher, Murray, Sharpe, Naylor opposed. Hausz/LaVoie absent). Motion failed.

Second

Motion: Preliminary approval to indefinite continuance to In-Progress with revisions to the fenestration of the top level of the tower, provide articulation of the blank wall along the rear building through the use of windows, landscaping, or other means , provide different sketches to simplify the design of the west elevation, use a more Mediterranean plant palette with taller trees as the landscape plan is developed , revisit the Chapala Street elevation, particularly looking at the tower.

Action: Naylor /Curtis , 4/3/2. (Boucher, Murray, Sharpe opposed. Hausz/LaVoie absent) Motion carried.

HLC MINUTES – October 3, 2007

GENERAL BUSINESS: (1:37)

- D. Announcements, requests by applicants for continuances and withdrawals, future agenda items, and appeals.
- 4. The HLC's preliminary approval of the project at 517 Chapala Street and their final approval of the sidewalk improvement project for 0-800 E. Cabrillo Blvd have been appealed. The City Council appeal hearing dates have not yet been set.
- 5. The Rental Housing Mediation Task Force will hold their regularly scheduled meeting in this room tonight so the HLC will need to be finished up by 7:00 p.m.
- 6. Mr. Jacobus announced that next Tuesday, October 9, 2007 is the appeal of the HLC's decision to keep 1849 Mission Ridge Road on the City's List of Potential Historic Resources and requested that one or more commissioners attend the meeting.
- 7. **Motion: To reconsider the Preliminary Approval granted on September 19, 2007 for the project at 517 Chapala Street. Adams/Boucher, 0/0/0 (Motion Tabled)**

Bettie Weiss, City Planner, clarified the process to reconsider preliminary approval of the project at 517 Chapala Street. The reconsideration cannot be done today since it was not placed on the agenda. The motion should be to request reconsideration on October 17, 2007 agenda.

HLC MINUTES – October 17, 2007

RECONSIDERATION HEARING

4. 517 CHAPALA ST

C-2 Zone

(2:00)

Assessor's Parcel Number: 037-163-007

Application Number: MST2005-00088

Applicant: Peikert Group Architects LLC

Applicant: H & R Investments

Architect: Peikert Group Architects

(The proposed project consists of a lot merger and the construction of a mixed-use development with six two-bedroom residential condominium units totaling 9,999 square feet (net) and two commercial Condominium spaces totaling 2,872 square feet (net). One of the units would be affordable. A modification to allow the 10% open space on the second floor is requested. Seventeen parking spaces are proposed.)

(PROJECT REQUIRES COMPLIANCE WITH PLANNING COMMISSION
RESOLUTION NO. 030-06.)

c) The project was not ready for preliminary approval.

Action: Adams/Boucher, 8/0/0. (Curtis absent). Motion carried.

PRELIMINARY REVIEW

(Review of revisions to project design.)

Tony Vasallo, a local resident, commented on the height of the ceilings of the condominium.

Karen McFadden, adjacent neighbor, opposed the project.

Kellam De Forrest, local resident, felt the building is still too massive and opposed the project.

Kathryn Dole, local resident, opposed the project.

Public comment closed at 2:38 P.M.

Public comment re-opened at 2:47 P.M.

Kathryn Dole, local resident, opposed the project.

Public comment re-closed at 2:50 P.M.

Motion: **Motion for a two week continuance with the following comments: On the South Elevation - 1)** Provide a transition to the Victorian structure to the south. **2)** Reduce the mass of building as it transitions to the south. **3)** Provide separation and substantial landscaping. **4)** Reduce the mass on the south side of the building. **5)** In the driveway area, provide substantial landscaped areas, as there is too much paving. **6)** At the Chapala Street elevation, provide more landscaping at the front of the building (36 inches required by the Planning Commission) and provide substantial plant materials including vertical canopy trees. **7)** The west elevation needs to conform to the Planning Commission resolution for the eight foot plate height in the garage and to reduce the building height to match. It is too repetitive and massive. Try and recapture the charm of the original project. **8)** At the south elevation, reduce the mass, perhaps by reducing a floor level, and provide substantial change in planting. Additionally, the windows be added as suggested by the Planning Commission. **9)** The tower is not resolved yet because it is too tall. **10)** The windows on Chapala Street are not appropriate for a middle level. **11)** The proposed landscaping and paving materials on Chapala Street need to conform to the Chapala Street Design Guidelines. **11)** Reduce the plate heights on residential units to ten foot maximum. **12)** Have a landscape architect get involved in the project.

Action Boucher/Sharpe, 4/2/1. (Hausz and Pujo opposed. Murray abstained. Curtis absent.) Motion carried.

HLC MINUTES – November 14, 2007

PRELIMINARY REVIEW

2. 517 CHAPALA ST C-2 Zone
(1:50) Assessor's Parcel Number: 037-163-007
 Application Number: MST2005-00088
 Owner: Montecito Bank & Trust, Trustee

Applicant: Peikert Group Architects, LLC

Applicant: H & R Investments

(The proposed project consists of a lot merger and the construction of a mixed-use development with six two-bedroom residential condominium units totaling 9,999 square feet (net) and two commercial condominium spaces totaling 2,872 square feet (net). One of the units would be affordable. A modification to allow the 10% open space on the second floor is requested. Seventeen parking spaces are proposed.)

(Continued request for Preliminary Approval.)

**(PROJECT REQUIRES COMPLIANCE WITH PLANNING COMMISSION
RESOLUTION
NO. 030-06.)**

Present: Detlev Peikert and Gordon Brewer, Peikert Group Architects
Rob Fowler, Landscape Architect

Public comment opened at 2:12 P.M.

Kellam De Forest, a local resident, opposed the project for the reason that the transition from the Victorian to the new structure is too harsh and asked whether the 2nd story commercial space could be removed.

George Ogle, a local resident, opposed the project.

Karen McFadden, neighboring resident, opposed the project.

Tony Vasallo, neighboring resident, opposed the project.

Tony Fischer, attorney on behalf of Mr. and Mrs. McFadden, opposed the project.

Public comment closed at 2:21 P.M.

Susan Gantz requested that she be notified by applicants about any changes to the project descriptions (such as square footages) so that the language will be correct in the agenda that is distributed to the public.

Straw Votes:

- 1) How many commissioners are comfortable with how the project is currently proposed?
3/6.
- 2) How many commissioners support the roof decks as proposed? 2/7.
- 3) How many commissioners are not in favor of roof deck on the Chapala street side? 3/6.
- 4) How many commissioners support the setbacks along the south elevation as presented with the five foot setback of the significant portion of the building? 0/9.
- 5) How many Commissioners would support an additional foot for a resulting 6 foot setback to extend back to the garage? 5/4.
- 6) How many commissioners are comfortable with the location of the garage on the property line? 7/2.
- 7) How many commissioners are comfortable with the 2nd and 3rd floors above the garage encroaching at the property line on the south elevation, facing the Victorian? 3/6.

- 8) How many commissioners are comfortable with the architecture? 8/1.
- 9) How many commissioners can support the Chapala street elevation as it addresses the sidewalk and providing landscape area as it presented? 5/4. (Three of those who dissented would require at least a 30 inch planter where the 20 inch planter is now).

Motion: Continued two weeks with the series of straw votes included as recommendations for the applicant to make the project approvable.

Action: Adams/Boucher, 8/1/0. (Murray opposed.) Motion carried.

HLC MINUTES – November 28, 2007

PRELIMINARY REVIEW

8. 517 CHAPALA ST C-2 Zone
(2:35) Assessor's Parcel Number: 037-163-007
Application Number: MST2005-00088
Architect: Peikert Group Architects
Owner: Montecito Bank & Trust, Trustee
Applicant: Peikert Group Architects LLC

(The proposed project consists of a lot merger and the construction of a mixed-use development with six two-bedroom residential condominium units totaling 9,999 square feet (net) and two commercial condominium spaces totaling 2,872 square feet (net). One of the units would be affordable. A modification to allow the 10% open space on the second floor is requested. Seventeen parking spaces are proposed.)

(Continued request for Preliminary Approval.)

(PROJECT REQUIRES COMPLIANCE WITH PLANNING COMMISSION RESOLUTION NO. 030-06.)

Present: Detlev Peikert, Peikert Group Architects
Gordon Brewer, Peikert Group Architects
Rob Fowler, Landscape Architect

Public comment opened at 2:45 P.M.

Kellam De Forest, a local resident, stated that the Commission has the power to deny projects and feels that they should deny this project because it is inappropriate for the surrounding area and it should be forwarded to the City Council to decide.

Tony Fischer, attorney, spoke on behalf of Karen McFadden, and stated that someone needs to look at the drawings closely and have them be submitted prior to the meetings. This would allow one to see how much surplus space could be taken out so that the building could be more. Additionally, he said that his client does not want large trees in their front yard. Lastly, he stated that the Applicant needs to refer to the Chapala Street Guidelines. Overall, he sees progression in the project.

Karen McFadden, a neighboring resident to the project, stated that the south elevation should be reduced and said that she has an issue with not knowing accurate square footage. She stated that she needs to know the accurate dimensions of the project in order to know if it can be reduced. However, she said that, overall, she was happy with the design, but that there are still some issues that need to be dealt with before it gets final approval.

Kathryn Dole, a neighboring resident to the project, stated that she approved the building itself but that this specific location is inappropriate for the building and asked the Commission to consider a denial of the project. She also expressed concern for the power lines and wanted them to be undergrounded. If that is not possible, the canopy trees would work.

Tony Vassallo, a local resident, commented about the questionable accuracy of the height and setbacks of the project.

Public comment closed at 2:58 P.M.

Motion: Preliminary approval of the project as submitted.

Action: Curtis/Pujo, 2/7/0. (Hausz, Adams, Boucher, Naylor, Murray, and Sharpe, opposed.) Motion failed.

Substitute

Motion: To deny the project with the following findings: The project is inconsistent with the Neighborhood Preservation Ordinance; 2) The project is inconsistent with the Chapala Street Design Guidelines; 3) The project is inconsistent with El Pueblo Viejo Design Guidelines; 4) The project is inconsistent with the Urban Design Guidelines; 5) The project is inconsistent with the preservation of, and has unmitigable impacts to, the adjacent Brinkerhoff Landmark District; 6) Applicant has not provided the requested additional increase in landscaping along Chapala Street; 7) Applicant has not increased the landscape buffer at the south elevation between the proposed project and the adjacent Victorian structure; 8) Applicant has not reduced the three story element on the south elevation; 9) There were concerns about the differential in square footage statistics on the drawings versus what was previously reviewed by the Planning Commission; 10) Some Commissioners continued to be concerned about the roof decks and fourth story elements and tower; and 11) Air conditioning equipment and solar panel locations need to be shown on the plans as hidden from public view.

Action: Boucher/Sharpe, 7/2/0. (Pujo and Curtis opposed.) Motion carried.

HLC Minutes – March 3, 2010

IN-PROGRESS REVIEW

6. 517 CHAPALA ST

C-2 Zone

(3:03) Assessor's Parcel Number: 037-163-007
Application Number: MST2005-00088
Owner: H&R Investments, LP
Applicant: Peikert Group Architects, LLC
Applicant: H&R Investments
Architect: Peikert Group Architects

(The proposed project consists of a lot merger and the construction of a mixed-use development with six two-bedroom residential condominium units totaling 9,999 square feet (net) and two commercial condominium spaces totaling 2,872 square feet (net). One of the units would be affordable. A modification to allow the 10% open space on the second floor is requested. Seventeen parking spaces are proposed.)

(Project requires compliance with Planning Commission Resolution No. 030-06.)

Present: Detlev Peikert, Architect
Kathleen Kennedy, City Project Planner

Mrs. Kennedy reviewed the project's history, including the Commission's denial of the project in 2008 and the applicant's appeal to the City Council in that same year. The appeal of the HLC denial was overturned by the City Council and Preliminary Approval of the project was granted.

Chair Naylor read City Council's direction:

"Councilmembers Williams/Horton moved to approve the recommendations and refer the project back to the HLC for in-progress review with specific direction as follows:

1. Incorporate into the design approval the proposed roof decks/garden;
2. Eliminate elevator access to front penthouse roof garden deck and thereby reduce the height of the tower to an acceptable height as determined by the HLC;
3. Require all air conditioning equipment or solar panels to be screened and hidden from public view; and
4. Reduce total square footage to that which was approved by the PC and require the applicant to obtain a substantial conformance determination."

Mrs. Kennedy clarified that, in reviewing the video of the City Council hearing, Staff found that Council's discussion for the first item in the motion was giving direction to the HLC to review the decks in relation to the privacy issues with the surrounding areas.

Public comment opened at 3:17 p.m.

Wanda Livernois, neighbor, expressed opposition to the project: not compatible with neighborhood.

Caroline Vassallo, neighbor, expressed opposition to the project: noticing requirements, roof top decks threatening views and privacy, and landscaping.

Kellam de Forest, local resident, expressed opposition to the project: compatibility with neighborhood and building height.

Tony Fischer, local attorney, expressed opposition to the project: noticing requirements, reduction of square footage and size, bulk and scale, and updated agenda description.

Paul Primeau, neighbor, expressed opposition to the project: noticing requirements, and no street parking permits.

Public comment closed at 3:27 p.m.

Motion: Continued two weeks with the following comments:

1. Suggestions were made with respect to landscape in terms of how it would impact the roof decks, air conditioning equipment and solar panels; and suggestions were made regarding the height and density of trees at the alley.
2. Provide a PDF of the City Council approved plans that were reviewed during the appeal hearing and of the plans currently being presented to the Commission.
3. Provide a 3-D model at the next review.
4. Staff is to provide the Commission with a link to the online City Council meeting video during which the appeal was overturned.
5. The reduction in total square footage will be confirmed by Staff.

Action: Suding/Shallanberger, 7/0/1. (Murray abstained. Boucher absent.) Motion carried.

HLC Minutes – April 14, 2010

PRELIMINARY REVIEW

3. 517 CHAPALA ST

C-2 Zone

(2:52)

Assessor's Parcel Number: 037-163-007

Application Number: MST2005-00088

Owner: H&R Investments, LP

Architect: Peikert Group Architects, LLC

(The proposed project consists of a lot merger and the construction of a mixed-use development with six two-bedroom residential condominium units totaling 9,999 square feet (net) and two commercial condominium spaces totaling 2,872 square feet (net). One of the units would be affordable. A modification to allow the 10% open space on the second floor is requested. Seventeen parking spaces are proposed.)

(Preliminary Approval of the project is requested. Previous Preliminary Approval expired on March 4, 2010. Project requires compliance with Planning Commission Resolution No. 030-06 and with City Council decision of March 4, 2008.)

Present: Lisa Plowman and Gordon Brewer, Peikert Group Architects
Jaime Limón, Senior Planner

Mr. Limón provided the Commission background information relative to the project's review history and how current regulations and guidelines do not allow for additional time extensions. Therefore, the Preliminary Approval has expired and a new Preliminary Approval is necessary for the project to move forward. Staff recommended that the Commission consider the unique facts and circumstances involving this project, including its valid land use approvals that will not expire until 2012 and to focus the review on verification of remaining design items consistent with the previous direction provided by City Council on March 4, 2008.

Public comment opened at 3:07 p.m.

Tony Vassalo, neighbor, commented about west elevator height, garage plate height, roof top balconies, and requirement for no "B" permits to be allowed on street.

George Ogle, neighbor, commented about the 2008 compatibility study, mountain views obstruction, and guideline violations.

Wanda Livernois, neighbor, commented about the compatibility with the character of the city, the surrounding neighborhood, and adjacent properties; and too little increase of landscape and height reduction.

Kellam de Forest, local resident, commented about compatibility guidelines and no benefit to the city.

Public comment closed at 3:18 p.m.

Motion: Deny the project based on the following:

1. The preliminary approval has expired.
2. Building design issues related to mass, bulk and scale.
3. Neighborhood compatibility concerns with adjacent Brinkerhoff Landmark District.

Action: Boucher/Sharpe, 4/3/0. (Naylor/Pujo/Shallanberger opposed. Drury/Murray absent.) Motion carried.



City of Santa Barbara

Community Development Department

Memorandum

DATE: April 9, 2010

TO: Historic Landmarks Commission

FROM: Jaime Limón, Senior Planner

SUBJECT: **517 Chapala Street- Preliminary Approval Expiration**

As you are aware, the above reference project has had a long history of review, (see attached chronology). City Council granted preliminary approval of the project in March of 2008 and Staff granted an additional 1 year time extension which extended the preliminary approval to March 4, 2010. Due to bad economic conditions that began in 2008, the project has not proceeded in obtaining a Final HLC Approval in the last two years. Current regulations and guidelines do not allow for additional time extensions. Therefore, the Preliminary Approval has expired and a new Preliminary Approval is necessary for the project to move forward.

Staff has outlined below the unique facts and circumstances involving this project to consider prior to taking new HLC action.

- The project is a multiple approval type project and has a valid land use approval from the Planning Commission for a condominium development and expires in July 2012.
- The compatibility criteria were adopted in late 2008 after this project had obtained City Council's preliminary approval decision and they would not be applied due to Planning Commission approvals.
- The amount of reviews, design expense and time investment in a project design that was already determined to be acceptable by the Planning Commission and City Council.

Staff is of the opinion, that the focus of the review should be on verification of remaining design items consistent with the previous direction provided by City Council on March 4, 2008, (refer to Council minutes).

Chronology – 517 Chapala Street

Planning Commission Concept Review April 2005

1st HLC Concept Review March 2005

Planning Commission Approval was granted July 2006

HLC granted Preliminary Approval September 2007

Planning Commission Approval decision appeal filed July 2006

Planning Commission Approval appeal was withdrawn September 2006

HLC Preliminary Approval granted on 4/3/2 vote September 2007

On September 9/07 appeal filed of HLC Preliminary Approval granted September 2007

Shortly thereafter, Oct. 2007, the HLC Preliminary Approval is reconsidered and rescinded, the HLC stated that the project was not ready for Preliminary Approval.

Project was reviewed by the HLC on Nov 14 and Nov 28, 2007. Total of (8) HLC hearings.

On November 28, 2007, the applicant requested that the HLC deny the project because it was their belief that, despite making a number of changes to address HLC concerns, more revisions were being requested would require a major redesign of the project

On November 28, 2007, HLC denies project.

Applicant appeals the decision and the project is heard by City Council on March 4, 2008.

SHO grants (4) year time extension on approval. Approval expires July 2012

Council upholds the appeal, granted Preliminary Approval, and referred the project back to the HLC with specific direction: (see attached minutes).

Planning staff grants a time extension until March 4, 2010

Application is resubmitted for In-progress review on February 22, 2010

In –progress HLC review on March 3, 2010

HLC and Council Preliminary Approval decision expires on March 4, 2010

FINAL CITY COUNCIL MINUTES

March 4, 2008

PUBLIC HEARINGS

10. Subject: Appeal Of Historic Landmarks Commission Decision For 517 Chapala Street Development Project (640.07)

Recommendation: That Council:

- A. Uphold the appeal of Peikert Group Architects filed on behalf of H&R Investments and overturn the Historic Landmarks Commission decision to deny Preliminary Approval of a proposed mixed-use project located at 517 Chapala Street; and
- B. Grant the project Preliminary Approval and refer the project back to the Historic Landmarks Commission for in-progress review with specific direction on the project's final design details, as outlined in the Council Agenda Report.

[2008 MAR 04 CAR 517 CHAPALA APPEAL - DO_70793.pdf](#)

Documents:

- March 4, 2008, report from the Acting Community Development Director.
- March 2, 2008, letter from Robert and Patricia Maxim.
- March 4, 2008, letter from Tony Fischer.

Public Comment Opened:

3:11 p.m.

Speakers:

- Staff: Senior Planner Jaime Limon, Associate Planner Jake Jacobus, City Attorney Stephen Wiley, City Planner Bettie Weiss.
- Planning Commission: Commissioner Harwood White, Commissioner Addison Thompson, Commissioner Bruce Bartlett.
- Historic Landmarks Commission: Commissioner Donald Sharpe, Commissioner Fermina Murray, Commissioner Alex Pujo, Commissioner Robert Adams.
- Appellant: Detlev Peikert, Steve Amerikaner, Lisa Plowman.

Recess:

4:13 p.m. - 4:24 p.m. Mayor Blum left the meeting at 4:13 p.m., and Mayor Pro Tempore Grant House presided for the remainder of the meeting.

Speakers (Cont'd):

- Members of the Public: Karen McFadden; Caroline Vassallo; Tony Vassallo; George Ogle; Comments by Maureen Masson, read by Mayor Pro Tempore House; Leon Olson; James Kahan; Naomi Kovacs, Citizens Planning Association's Land Use Committee; Steve Cushman, Santa Barbara Chamber of Commerce; Cathie McCammon, League of Women Voters; Michael Self, Santa Barbara Safe Streets; Rich Untermann; Wanda Liverniors; Tony Fischer, agent for Pat and Karen McFadden; Kellam de Forest;

Jim Westby, Santa Barbara Safe Streets; Gil Barry.

Public Comment Closed:

5:08 p.m.

Motion:

Councilmembers Williams/Horton to approve the recommendations and refer the project back to the Historic Landmarks Commission for in-progress review with specific direction as follows:

1. Incorporate into the design approval the proposed roof decks/garden;
2. Eliminate elevator access to front penthouse roof garden deck and thereby further reduce the height of the tower to an acceptable height as determined by the HLC;
3. Require all air conditioning equipment or solar panels to be screened and hidden from public view; and
4. Reduce total square footage to that which was approved by the Planning Commission and require the applicant to obtain a substantial conformance determination.

Vote:

Unanimous voice vote (Absent: Councilmember Mayor Blum).

**ATTACHMENT NO. 6 TO THIS COUNCIL AGENDA
REPORT IS AVAILABLE FOR REVIEW
IN THE CITY CLERK'S OFFICE**



City of Santa Barbara California

ATTACHMENT 7

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 030-06

517 CHAPALA STREET

MODIFICATIONS, DEVELOPMENT PLAN, TENTATIVE SUBDIVISION MAP

JULY 13, 2006

**APPLICATION OF PEIKERT GROUP ARCHITECTS FOR H & R INVESTMENTS, LP,
PROPERTY OWNER, 517 CHAPALA STREET, APN 037-163-007 & -008, C-2,
COMMERCIAL ZONE, GENERAL PLAN DESIGNATION: GENERAL COMMERCE
(MST2005-00088)**

The proposed project consists of a lot merger, the demolition of 1,300 square feet of commercial space and the construction of a three-story, mixed-use development with six residential condominium units totaling 9,999 square feet (net), two commercial condominium spaces totaling 2,872 square feet (net) and seventeen parking spaces. The project includes a request for one additional residential unit pursuant to State Density Bonus law. The proposed mix of units consists of one (1) three-bedroom market rate unit, four (4) two-bedroom market rate units and one (1) two-bedroom moderate income affordable unit.

The discretionary applications required for this project are:

1. A Modification to allow the required ten percent open space area to be provided on the second floor (SBMC§28.21.080.F);
2. A Modification of the lot area requirement to allow the one-bedroom market rate unit to have two bedrooms instead of one bedroom (SBMC§28.21.080.G);
3. A Modification of the lot area requirement to allow the third floor market rate unit to have three bedrooms instead of two bedrooms (SBMC§28.21.080.G);
4. Development Plan Approval for 1,572 square feet (net) of new nonresidential square footage (SBMC§28.87.300); and
5. A Tentative Subdivision Map to allow a one-lot subdivision to create six residential condominium units and two commercial condominium units (SBMC§27.07).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15332 (infill development project).

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, 2 people appeared to speak in support of and in opposition to certain aspects of the application, and 2 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, July 13, 2006.
2. Site Plans
3. Correspondence received in support of and in opposition to certain aspects of the project:
 - a. Caroline and Tony Vassallo, 514 Brinkerhoff Avenue.Correspondence received in opposition to the project:
 - a. Karen McFadden, 505 and 509 Chapala Street.

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission:

- I. Approved the subject application making the following findings and determinations:

The Planning Commission finds the following:

A. *Modification of Open Space and Lot Area (SBMC§28.21.080)*

The modifications are consistent with the purposes and intent of the Zoning Ordinance and are necessary to secure an appropriate improvement on a lot and construct a housing development which is affordable to moderate-income households.

B. *Development Plan Approval (SBMC§28.87.300)*

1. The proposed development complies with all provisions of the Zoning Ordinance, can be found consistent with the purpose and intent of the Ordinance and the proposed project is an appropriate use for the neighborhood; and
2. The proposed development is consistent with the principles of sound community planning. The proposed mixed-use project would allow for additional residential units and commercial spaces in the West Downtown area, and is consistent with the existing mix of uses in the surrounding neighborhood; and
3. The proposed development will not have a significant adverse impact upon the neighborhood's aesthetics/character in that the size, bulk or scale of the development will be compatible with the neighborhood; and
4. The proposed development will not have a significant unmitigated adverse impact upon City and South Coast affordable housing stock since the proposal involves the addition of seven residential units in the City's housing stock including one unit affordable to moderate income households; and
5. The proposed development will not have a significant unmitigated adverse impact on the City's water resources because the City currently has a sufficient dependable water supply to serve this project; and
6. The proposed development will not have a significant unmitigated adverse impact on the City's traffic because the proposed use will meet its parking demand for the site and vehicle trips associated with the use will not significantly impact the City's street network.

C. *Tentative Subdivision Map (SBMC §27.07.100)*

The Tentative Subdivision Map is consistent with the General Plan and the Zoning Ordinance of the City of Santa Barbara. The site is physically suitable for the proposed development, the project is consistent with the variable density provisions of the Municipal Code and the General Plan, and the proposed use is consistent with the Land Use Element and zoning designation for the site, and the vision for this neighborhood in the General Plan. The design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems or conflict with easements, acquired by the public at large, for access through or use of property within the proposed development.

D. *New Condominium Development (SBMC §27.13.080)*

1. *The project complies with all provisions of the City's Condominium Ordinance.*

The project complies with the density requirements and each unit includes adequate covered parking with storage, laundry facilities, separate utility metering, adequate unit size and required private outdoor living space.

2. *The proposed development is consistent with the General Plan of the City of Santa Barbara.*

The project is consistent with policies of the City's General Plan including the Land Use Element, Housing Element, Conservation Element, Noise Element and Circulation Element. The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources. The project will provide infill residential and commercial development in the Downtown that is compatible with the surrounding neighborhood.

3. *The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources.*

The project is an infill mixed-use project proposed in an area where residential and commercial uses are permitted. The project is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts. Adequate park facilities exist nearby, and the project would not adversely impact other community resources, such as water, sewer, police, fire, and schools. The design has been reviewed by the City's design review board, which found the architecture and site design appropriate.

II. Said approval is subject to the following conditions:

In consideration of the project approval granted by the Planning Commission and for the benefit of the owner(s) and occupant(s) of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession and enjoyment of the Real Property:

- A. **Recorded Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property" which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural water courses, conduits and any access road, as appropriate. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health or damage to the Real Property or any adjoining property.
 2. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats or trailers shall be stored on the Real Property.
 3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Historic Landmarks Commission (HLC). Such plan shall not be modified unless prior written approval is obtained from the HLC. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan.
 4. **Ownership Unit Affordability Restrictions.** The dwelling unit designated as Unit Five on the approved site plan shall be designated as a Moderate Income Affordable Unit and sold only to and occupied only by a household that qualifies as a Moderate Income Household as defined in the City's adopted Affordable Housing Policies and Procedures. The maximum sale price upon initial sale shall not exceed \$215,200.

The Affordable Unit shall be sold and occupied in conformance with the City's adopted Affordable Housing Policies and Procedures. The resale prices of the Affordable Unit shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure continued affordability for at least forty-five (45) years from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.
 5. **Approved Development.** The development of the Real Property approved by the Planning Commission on July 13, 2006 is limited to the construction of a mixed-use development with six residential condominium units totaling 9,999 square feet (net), two commercial condominium spaces totaling 2,872 square feet (net), sixteen parking spaces, with an access from the alley to the main garage for residents, and the improvements shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.

6. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:
 - a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium parcels.
 - b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
 - c. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
 - d. **Trash and Recycling.** Adequate space shall be provided and maintained for trash and recycling purposes.
 - e. **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.
 7. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance and most currently adopted Energy Code. No floodlights shall be allowed. Exterior lighting shall be shielded and directed toward the ground.
 8. **Street Tree Protection.** The street trees within the City's right-of-way shall be preserved and protected.
 9. **Storm Water Pollution Control Systems Maintenance.** The Owner(s) shall maintain the drainage system, storm drain water interceptor and other storm water pollution control devices in accordance with the Operations and Maintenance Procedure Plan approved by the Building Official and/or the Public Works Director.
 10. **Residential Permit Parking Program.** Residents shall not participate in the Residential Permit Parking Program.
- B. **Design Review.** The following is subject to the review and approval of the Historic Landmarks Commission (HLC):
1. **Chapala Street Streetscape Design Guidelines.** The project shall comply with the Chapala Street Streetscape Design Guidelines.

2. **South Elevation.** Provide articulation of blank wall along rear building through use of windows, shutters, landscaping or other means deemed appropriate.
 3. **Balconies.** The third story balconies shall be reduced to the minimum dimensions required by the Zoning Ordinance.
 4. **Residential Garage Plate Height.** The residential garage plate height will be lowered to a floor-to-floor of approximately nine feet; subsequently, the building above it will be reduced accordingly.
 5. **Garage Access.** Provide access from the residential garages to the elevator by reducing the two-car garage of Unit 2 to a one-car garage.
 6. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.
- C. **Public Works Submittal Prior to Final Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Final Map for the project:
1. **Final Map.** The Owner shall submit to the Public Works Department for approval, a Final Map prepared by a licensed land surveyor or registered Civil Engineer. The Final Map shall conform to the requirements of the City Survey Control Ordinance.
 2. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property. Said agreement will be prepared by Engineering Division Staff for the Owner's signature.
 3. **Required Private Covenants.** The Owner shall submit a copy of the recorded private covenants, reciprocal easement agreement, or similar private agreements required for the project.
 4. **Street Improvement Plans.** The Owner shall submit building plans for construction of improvements along the subject property road frontage on Chapala Street. As determined by the Public Works Department, the improvements shall include new, and/or remove and replace to City standards: new sidewalk subject to the Chapala Street Streetscape Design Guidelines, driveway apron modified to meet Title 24 requirements, curbs, gutters, apply crack seal to the centerline of the street along entire subject property frontage, underground service utilities, connection to City water and sewer mains, private on-site drainage conveyance system including trench slot drain and public curb drain outlets, preserve and/or reset survey monuments, supply and install directional/regulatory traffic control signs, storm drain stenciling, on-site pollution prevention interceptor device, drought-tolerant parkway landscaping, street trees, and tree grates subject to Chapala Street Streetscape Design Guidelines, and provide adequate positive drainage from site. The building

plans shall be prepared by a registered civil engineer or licensed architect and reviewed by the City Engineer.

5. **Land Development Agreement.** The Owner shall submit an executed Agreement for Land Development Improvements, prepared by Engineering Division Staff, an Engineer's Estimate, signed and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement.
6. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way (easement).
7. **Voluntary Merger Required.** The Real Property known as APN 037-163-007 and APN 037-163-008 shall be merged into one lot as a part of the Final Map.

D. Public Works Requirements Prior to Building Permit Issuance. The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.

1. **Recordation of Final Map/Merger and Agreements.** After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department.
2. **Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit.** Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building permit.
3. **Storm Drain Operation and Maintenance Plan Required.** The Owner shall provide an Operations and Maintenance Procedure Plan (describing replacement schedules for pollution absorbing filters, etc.) for the operation and use of the storm drain system. The Plan shall be approved by the Creeks Division, Building and Safety Division, and the Public Works Department.

E. Community Development Requirements Prior to Building or Public Works Permit Application/Issuance. The following shall be finalized prior to, and/or submitted with, the application for any Building or Public Works permit:

1. **Neighborhood Notification Prior to Construction.** At least twenty (20) days prior to commencement of construction, the contractor shall provide written notice to all property owners, businesses and residents within 450 feet of the project area. The notice shall contain a description of the project, the construction schedule, including days and hours of construction, the name and phone number of the Contractor(s), site rules and Conditions of Approval pertaining to construction activities and any additional information that will assist the Building Inspectors, Police Officers and the public in addressing problems that may arise during construction. The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to

being distributed. An affidavit signed by the person(s) who compiled the mailing list shall be submitted to the Planning Division.

2. **Discussions regarding alley.** The applicant is encouraged to contact the owners of the properties north and south of the project and the adjacent property owners across the alley in the Brinkerhoff Landmark District to assemble a committee to discuss and pursue improvements to the alley for the benefit of all.
3. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions and Conditions of Approval. Submit a copy of the notice to the Planning Division.
4. **Archaeological Monitoring Contract.** Submit to the Planning Division a contract with an archaeologist from the most current City Qualified Archaeologists List for monitoring during all ground disturbing activities associated with the project, including, but not limited to, grading, excavation, trenching vegetation or paving removal and ground clearance in the areas identified in the Phase 1 Archaeological Resources Report prepared for this site by Stone Archaeological Consulting, dated April 2006. The contract shall be subject to the review and approval of the Planning Division.

The archaeologist's monitoring contract shall include the following provisions: If cultural resources are encountered or suspected, work shall be halted or redirected by the archaeologist immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, preparation of further site studies and/or mitigation.

If the discovery consists of possible human remains, the Owner shall contact the Santa Barbara County Coroner immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. The Owner shall retain a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, the Owner shall retain a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

5. **Environmental Site Assessment Final Report Contract.** Submit to the Planning Division a copy of the contract with Groundwater Solutions Inc. or other appropriate consultant for fieldwork as recommended in the Phase I Environmental Site Assessment Report dated June 2005.
 6. **Recorded Affordability Control Covenant.** Submit to the Planning Division a copy of an affordability control covenant that has been approved as to form and content by the City Attorney and Community Development Director, and recorded in the Office of the County Recorder, which includes the following:
 - a. **Initial Sale Price Restrictions.** The dwelling unit designated as Unit Five on the approved site plan shall be designated as an Moderate Income Affordable Unit and sold only to and occupied only by a household who qualifies as a Moderate Income Household as defined in the City's adopted Affordable Housing Policies and Procedures. The maximum sale price upon initial sale shall not exceed \$215,200.
 - b. **Resale Restrictions.** The Affordable Unit shall be sold and occupied in conformance with the City's adopted Affordable Housing Policies and Procedures. The resale price of the Affordable Unit shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure continued affordability for at least forty-five (45) years from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.
 7. **Final Planning Commission Resolution Submittal.** The final Planning Commission Resolution shall be submitted, indicating how each condition is met with drawing sheet and/or note references to verify condition compliance. If the condition relates to a document submittal, describe the status of the submittal (e.g., Final Map submitted to Public Works Department for review), and attach documents as appropriate.
- F. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.
1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Historic Landmarks Commission.
 2. **Interior Noise Analysis Report.** To confirm that the proposed project complies with the City requirements regarding interior noise, an interior noise analysis report shall be submitted along with the building permit application.
 3. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

4. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers shall be provided on the Real Property and screened from view from surrounding properties and the street. Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.
5. **Commercial Dumpsters.** Commercial dumpsters shall be provided, including an equal area for recycling containers. Dumpsters shall not be placed within five feet (5') of combustible walls, openings or combustible roof eaves lines unless sprinkler coverage is provided.
6. **Water-Conserving Fixtures.** All plumbing fixtures shall be water-conserving devices in new construction, subject to the approval of the Water Resources Management Staff.
7. **Conditions on Plans/Signatures.** The final Planning Commission Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

_____ Property Owner		_____ Date
_____ Contractor	_____ Date	_____ License No.
_____ Architect	_____ Date	_____ License No.
_____ Engineer	_____ Date	_____ License No.

G. Construction Implementation Requirements. All of these construction requirements shall be carried out in the field for the duration of the project construction.

1. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of containers for collection of demolition/construction materials.
2. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.
3. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Public Works Director.
4. **Haul Routes.** The haul route(s) for all construction-related trucks, three tons or more, entering or exiting the site, shall be approved by the Public Works Director.
5. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below:

New Year's Day	January 1 st *
Martin Luther King's Birthday	3 rd Monday in January
Presidents' Day	3 rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 th *
Labor Day	1 st Monday in September
Thanksgiving Day	4 th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25 th *

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

6. **Construction Parking/Storage.** Construction parking and storage shall be provided as follows:
 - a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director.
 - b. Storage or staging of construction materials and equipment within the public right-of-way is prohibited.
7. **Water Sprinkling During Grading.** During site grading and transportation of fill materials, regular water sprinkling shall occur using reclaimed water whenever the Public Works Director determines that it is reasonably available. During clearing, grading, earth moving or excavation, sufficient quantities of water, through use of either water trucks or sprinkler systems, shall be applied to prevent dust from leaving the site. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Increased watering frequency will be required whenever the wind speed exceeds 15 mph.
8. **Covered Truck Loads.** Trucks transporting fill material to and from the site shall be covered from the point of origin.

9. **Expeditious Paving.** All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used, as directed by the Building Inspector.
 10. **Gravel Pads.** Gravel pads shall be installed at all access points to the project site to prevent tracking of mud on to public roads.
 11. **Street Sweeping.** The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.
 12. **Construction Best Management Practices (BMPs).** Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.
 13. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name, contractor(s) telephone number, work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval.
 14. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
 15. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed in a timely manner may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.
- H. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements caused by construction for curbs, gutters, sidewalks, etc., subject to the review and approval of the Public Works Department. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility undergrounding and installation of street trees.
 3. **Backflow Device.** Provide an approved backflow device placed on the property side of consumer's service pursuant to Santa Barbara Municipal Code Section 14.20.120.

4. **Ownership Affordability Provisions Approval.** For all dwelling units subject to affordability conditions obtain from the Community Development Director, or Director's designee in the City's Housing Programs Division, written approval of the following: (a) the Marketing Plan as required by the City's Affordable Housing Policies and Procedures; (b) the initial sales prices and terms of sale (including financing); (c) the eligibility of the initial residents; and (d) the recorded affordability control covenants signed by the initial purchasers which assure continued compliance with the affordability conditions.
 5. **Archaeological Monitoring Report.** A final report on the results of the archaeological monitoring shall be submitted to the Planning Division within 180 days of completion of the monitoring or prior to the issuance of the Certificate of Occupancy, whichever is earlier.
 6. **Environmental Site Assessment Confirmation Report.** A final report on the results of the fieldwork recommended in the Phase I Environmental Site Assessment report shall be submitted to the Planning Division within 180 days of completion of the fieldwork or prior to the issuance of the Certificate of Occupancy, whichever is earlier.
 7. **New Construction Photographs.** Photographs of the new construction, taken from the same locations as those taken of the story poles prior to project approval, shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.
- I. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.
- Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses and costs of that independent defense.

NOTICE OF DEVELOPMENT PLAN TIME LIMITS:

The development plan approved, per Santa Barbara Municipal Code §28.87.350, shall expire four (4) years from the date of approval unless:

1. A building or grading permit for the work authorized by the development plan is issued prior to the expiration date of the approval.
2. A time extension is granted by the Planning Commission for one (1) year prior to the expiration date of the approval, only if it is found that there is due diligence to implement and complete the proposed project. No more than one (1) time extension may be granted.

NOTICE OF TENTATIVE SUBDIVISION MAP TIME LIMITS:

The Planning Commission's action approving the Tentative Map shall expire two (2) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110 or the provisions of the California Subdivision Map Act.

This motion was passed and adopted on the 13th of July, 2006, by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 7 NOES: 0 ABSTAIN: 0 ABSENT: 0

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Planning Commission at its meeting of the above date.

Gabriela Feliciano, Commission Secretary

Date

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 055-08 517 CHAPALA STREET TIME EXTENSION JULY 16, 2008

APPLICATION OF PEIKERT GROUP ARCHITECTS FOR H & R INVESTMENTS, LP, 517 CHAPALA STREET, APN 037-163-007 & -008, C-2, COMMERCIAL ZONE, GENERAL PLAN DESIGNATION: GENERAL COMMERCE (MST2005-00088)

The proposal is a request to extend the expiration date of the Tentative Map approved by the Planning Commission on July 13, 2006. **A three-year extension is requested pursuant to SBMC§27.07.110.** The project approved by the Planning Commission consists of a lot merger, the demolition of 1,300 square feet of commercial space and the construction of a three-story, mixed-use development with six residential condominium units totaling 9,999 square feet (net), two commercial condominium spaces totaling 2,872 square feet (net) and seventeen parking spaces. The project includes one additional residential unit pursuant to State Density Bonus law. The proposed mix of units consists of one (1) three-bedroom market rate unit, four (4) two-bedroom market rate units and one (1) two-bedroom moderate income affordable unit. The approval also included an open space modification, a lot area modification and development plan approval.

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15305 for the extension of time limits on an approved project where circumstances have not changed.

WHEREAS, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, no one appeared to speak in favor or opposition of the application, and the following exhibits were presented for the record:

Staff Report with Attachments, July 9, 2008.

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer:

Approved the three-year time extension, to July 13, 2011, for the Tentative Subdivision Map, subject to the original conditions of approval included in Exhibit C.

This motion was passed and adopted on the 16th day of July, 2008 by the Staff Hearing Officer of the City of Santa Barbara.

On July 15, 2008, the California Governor signed into law amendments to portions of the Subdivision Map Act to grant one-year automatic tentative map extensions under certain circumstances (See, Government Code Section 66452.21). The extension granted by this legislation is separate from the extension granted by this action of the Staff Hearing Officer. Therefore, the aforementioned tentative map is extended for a total of **four years, to July 13, 2012.**

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Staff Hearing Officer at its meeting of the above date.

Gloria Shafer, Staff Hearing Officer Secretary

Date

PLEASE BE ADVISED:

1. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
2. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
3. **NOTICE OF APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Performance Standard Permit or Modifications shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
 - a. A building permit for the construction authorized by the approval is issued within twenty four months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;
 - b. The approved use has not been discontinued, abandoned or unused for a period of six months following the earlier of:
 - i. an Issuance of a Certificate of Occupancy for the use, or;
 - ii. one (1) year from granting the approval.

CORRESPONDENCE

June 16, 2010

To: Mayor Helene Schneider and Members of City Council

RE: The Developer's Appeal to City Council on the 517 Chapala Project denied by the HLC: No.MST2005-00088 (Hearing Date on June 21, 2010) No.

From: Caroline Vassallo (514 Brinkerhoff Avenue, S.B.)

The mixed-use project designed for 517 Chapala St. is too large in height, mass, bulk and scale. This is particularly true since it borders the Brinkerhoff Architectural Landmark District on its south and west sides.

Along with the existing Andalusia mixed-use project to its north, the proposed plan will dwarf and hide views from both south and west, as well as from the east side of Chapala Street to the west. The height planned will especially restrict views to and from the predominantly one story Victorian/Craftsman streetscape in the adjacent Brinkerhoff Avenue Historic surroundings. The public pedestrian views of all who use Brinkerhoff Avenue--including the tour busses--will be seriously impacted in loss of open sky due to the height of the proposed building.

In sum, the proposed project will create a canyon effect on Chapala St. and wall off the Brinkerhoff Architectural Landmark District with yet another large building that offers no little relief in terms of its massing on the site.. That there will be two very different architectural styles is a given but, that being said, there is no reason for the one style to offend the other and highlight the architectural discrepancy by over-building the site.

Streetscape relief is needed to provide a lower building profile and avoid the Chapala Street canyon effect. Lower height and building scale would allow for the much needed spatial perspective.

Prior to the June 21st hearing, I requested that story poles be set up so that City Council Members would be able to best assess the height, mass, bulk and scale of the proposed project and its effect upon the surrounding area.

The proposed roof top decks add an additional overuse of the site which will further impact surrounding one and two story buildings. The roofline of the building could be lower and more architecturally interesting if the roof decks were eliminated. The original plan called for a nine foot plate height in the first story garage in order to maintain more of a residential scale on the west elevation. If the plan is approved, this garage plate height should remain or be lowered further if possible. The Andalucía mixed-use building adjacent was approved with a condition that no off street parking permits would be permitted for occupants, employees or customers and that condition should be applied to the proposed building as well in the event of approval, because adequate on-site parking exists within the project design and off street parking is needed for all the older non-conforming buildings.

I continue to propose that story poles be erected on the proposed site, so City Council can get a better idea as to the scale of what is proposed and see it in relation to the recently completed Andalucía and historic adjacent properties.

Sincerely, Caroline Vassallo